

REMARKS

Claims 1, 2, 5, 6 and 9 have been amended. Claims 13-28 are new.

Claims 1, 5, and 9 have been amended to recite inter alia “comprising administering an amount of an HMG1 antagonist effective to inhibit the inflammatory cytokine cascade, wherein said HMG1 antagonist is an antibody that binds to HMG1 and inhibits the interaction between HMG1 and RAGE.” Support for the amended claims is found throughout the application as filed, for example, at page 4, lines 12-21; at page 8, lines 26-30 and at page 16, lines 9-22.

Claims 2 and 6 have been amended to delete “antagonist or inhibitor” and properly depend on Claims 1 and 5, respectively, as amended.

Claim 5 has been amended to delete “and related conditions involving activation of the inflammatory cytokine cascade”.

Support for new Claims 13, 17, 21 and 25 is found, for example, at page 4, line 28 through page 8, line 23 and at page 8, line 26 through page 9, line 3.

Support for new Claims 14-16, 18-20, 22-24, and 26-28 is found, for example, at page 9, lines 3-7 and at page 13, lines 13-15.

The amended claims and new claims are supported by the application as filed. Therefore, this Amendment adds no new matter.

Additional remarks are set forth below with reference to the rejections set forth in the Office Action.

Rejection of Claims 1-12 Under 35 U.S.C. § 112, Second Paragraph

Claims 1-12 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. The Examiner states that the claims are indefinite because “the claims do not set forth a step that accomplishes the recited goals of the claim.” (Office Action, page 2)

The Examiner suggests amending the claim to recite the intended treatment, e.g. “a method for treating a condition characterized by activation of the inflammatory cytokine cascade

comprising administering an amount of an HMG1 antagonist effective to inhibit the inflammatory cytokine cascade”.

Claims 1, 5 and 9 have been amended to include the language suggested by the Examiner. Claims 2 and 6 have been amended to properly depend on Claims 1 and 5, respectively, as amended. Claims 2-4, 6-8 and 10-12 are dependent on Claims 1, 5 and 9, respectively, and as amended, Claims 1, 5 and 9 recite the intended treatment and thus, Claims 2-4, 6-8 and 10-12 are not indefinite. Reconsideration and withdrawal of the rejection is requested.

Rejection of Claims 1-2 Under 35 U.S.C. § 112, First Paragraph

Claims 1 and 2 are rejected under 35 U.S.C. § 112, first paragraph, because the Examiner alleges that the specification “while being enabling for a method for treating a condition characterized by activation of the inflammatory cytokine cascade comprising administering an amount of an HMG1 antibody effective to inhibit the inflammatory cytokine cascade, does not reasonably provide enablement for the genus of administering antagonists and inhibitors of HMG1.” The examiner further states “[t]he claims encompass any and all HMG1 antagonists and inhibitors, yet the specification has only taught one HMG1 antagonist/inhibitor to treat sepsis, e.g., an anti-HMG1 antibody.” (Office Action, page 3)

Claim 1 has been amended to delete “antagonist or inhibitor” and recite “HMG1 antagonist..., wherein said HMG1 antagonist is an antibody...”. Claim 2 is dependent on Claim 1, and as amended, Claim 1 does not encompass any and all HMG1 antagonists and inhibitors, and therefore the Examiner’s rejection is moot. Reconsideration and withdrawal of the rejection is requested.

Rejection of Claims 1-12 Under Nonstatutory Double Patenting

Claims 1-12 are rejected on the ground of nonstatutory double patenting over Claims 1-7 of U.S. Patent No. 6,448,223. The Examiner states that the subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: methods for treating a condition characterized by activation of the inflammatory cytokine cascade comprising administering an amount of an HMG1 antagonist antibody.

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application.

A Terminal Disclaimer in compliance with 37 C.F.R. § 1.132(c) will be filed, if still necessary, when all other rejections are withdrawn and the application is otherwise in condition for allowance.

Supplemental Information Disclosure Statement


A Supplemental Information Disclosure Statement (SIDS) is being filed concurrently herewith. Entry of the SIDS is respectfully requested.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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